APPENDIX

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS. COURT OF PROBATE.

TO THE HONORABLE JUDGE OF PROBATE FOR THE COUNTY OF STRAFFORD:

Your Petitioner ( ) Priscilla S. Henderson, Executrix of the Estate of Eudore J. Sylvain, of Marblehead, County of Essex and Commonwealth of Massachusetts respectfully represent(s) that:

1. That Eudore J. Sylvain deceased, testate, October 24, 1971, leaving an apartment building, later appraised at $19,500. to his wife, Gladys Sylvain and the balance of his Probate Estate, later appraised at $32,355.90, to his two children, Charles H. Sylvain and Priscilla S. Henderson, share and share alike.

2. On November 16, 1971, his Will was proven in common form.

3. On January 25, 1972, said Will was proven in solemn form. It appointed Charles H. Sylvain and Priscilla S. Henderson as Co-Executors. Charles H. Sylvain filed a Declination of Appointment and Priscilla S. Henderson was appointed Executrix on the same date.

4. On February 25, 1972, Charles H. Sylvain appealed the allowance of the Will to the Strafford County Superior Court.

5. The Superior Court's Decree dated May 24, 1973, upheld the validity of the Will, finding that it was duly executed, that the Testator was of sound mind, and that the Will was not the product of undue influence.

6. On July 27, 1973, Charles H. Sylvain appealed said decision to the Supreme Court of the State of New Hampshire.

7. The Supreme Court's decree dated January 31, 1976, dismissed the appeal and affirmed the original decree.

8. Charles H. Sylvain filed a Motion for Rehearing in the Supreme Court, which was dismissed by said Court on March 31, 1976.

9. On April 29, 1976, Charles H. Sylvain petitioned the Strafford County Superior Court for a new trial.

10. On May 10, 1976, he filed a supplemental Petition for a new trial and later filed a Motion for a Stay of Execution, all of which were denied by the Superior Court on May 17, 1976.

11. On May 19, 1976, Charles H. Sylvain filed a Request for Ruling on the Reason for the Court's Denial, which request was denied on May 26, 1976.

12. On June 28, 1976, Exceptions and Objections to the Court's Ruling were filed by the said Charles H. Sylvain, and the case was transferred to the Supreme Court on June 29, 1976.

13. On October 31, 1976, Charles H. Sylvain requested that the Supreme Court change the transcript because he did not agree with the accuracy of portions of it.

14. On November 4, 1976, he petitioned the Supreme Court to remand the case to the Superior Court to correct the errors in the transcript. This was denied on November 10, 1976.

15. On November 13, 1976, he again petitioned the Supreme Court to remand the case to the Superior Court, which Motion was denied on November 17, 1976.

16. On December 9, 1976, and January 1, 1977, Briefs were filed in the Supreme Court.

17. On January 8, 1977, Charles H. Sylvain petitioned to file a Reply Brief and was given until February 10, 1977, to do so.

18. The Supreme Court's Decree dated June 27, 1977, over-ruled his exceptions.

19. On June 30, 1977, Charles H. Sylvain filed a Motion for Rehearing in the Supreme Court, which motion was also denied.

20. On January 4, 1977, Charles H. Sylvain brought suit in the U.S. District Court for the State of New Hampshire against the Supreme Court of the State of New Hampshire and its Justices because they would not allow him to amend the transcript in the above case, as requested by him in October and November of 1976.

21. On January 5, 1977, he filed a Motion to Amend his complaint and a Motion to have the Clerk of the Supreme Court designated as the person to receive service for the Justices of the Supreme Court.

22. On January 12, 1977, the U.S. District Court for the State of New Hampshire dismissed the case and ordered Judgment in accordance therewith.

23. On January 21, 1977, he filed a Motion to Amend or Vacate said Judgment which was also dismissed.

24. The Second and Third Accounts were filed in the Probate Court and were allowed on June 3, 1976. Charles H. Sylvain objected to the payment of a commission to the Executrix at the hearing on said Accounts.

25. Charles H. Sylvain appealed the allowance of the Accounts based upon the payment of the commission to the Superior Court on June 28, 1976. The Probate Court was notified during the interim period that the Executrix had waived her commission in the interest of avoiding further appeal and the case was thereafter marked "moot" by the Probate Court.

26. On November 18, 1977, Charles H. Sylvain instituted suit in the Strafford County Superior Court against the Executrix of the Estate & Judge William E. Galanes, then Judge of the Strafford County Probate Court.

27. Charles H. Sylvain then filed approximately 25 various Motions, Pleadings and Interrogatories between February, 1978 and January of 1979.

28. On January 10, 1979, a hearing on the various matters before the Superior Court was had and the various Petitions were dismissed by Decree of January 12, 1979.

29. On January 16, 1979, Charles H. Sylvain filed a Request for Ruling and a Motion to Vacate the Decree which was denied on January 23, 1979.

30. On November 2, 1978, in response to one of the Interrogatories, Judge William E. Galanes responded as follows: "It is obvious that throughout all of these proceedings, that Charles H. Sylvain is still contesting the Will, which has been upheld at all Court levels and is using any and all means to continue his attack on the Last Will and Testament of Eudore J. Sylvain and is preventing the orderly and expeditious settlement of the Estate".

31. The Fourth Account was allowed by this Honorable Court on December 6, 1977. Mr. Sylvain's objection at the hearing prior to the allowance of this Account was with respect to the sale of the various securities by the Executrix during the preceeding year. Appeal was made to the Supreme Court of the State of New Hampshire on December 27, 1977, which your Petitioner believes is still pending.

32. It is also noted that on May 9, 1979, Charles H. Sylvain filed suit against a former Attorney of his in this matter in the Rockingham County Superior Court,

which suit remains pending. As a part of said suit, he also filed a "Pure Bill of Discovery" against Priscilla S. Henderson, as Executrix and Gladys M. Sylvain, as devisee under the Will of Eudore J. Sylvain, asking for the production of quantities of information. It is your Petitioner's understanding that these matters still remain pending. It is noted that as recently as August of 1981, Mr. Sylvain has brought an additional "Pure Bill of Discovery" in this matter against Priscilla S. Henderson, Executrix and devisee of the Estate of Eudore J. Sylvain, defendant", which bill in part asks for a production of additional quantities of information.

33. A Petition very similar to the within Petition was filed by the said Priscilla S. Henderson in January of 1980, but because of the untimely death of William E. Galanes, then Judge of the Strafford County Probate Court, no decision was ever rendered. As a result of that Petition, however, Mr. Sylvain filed no less than 56 interrogatories which were answered by Mrs. Henderson and reviewed by the Court in two lengthy hearings.

34. It is apparent from the voluminous appeals, motions and re-appeals that Mr. Sylvain has made the litigation of this Estate his life's work. It is also apparent that his endless legal machinations are frivilous, immaterial and intended for delay. It is noted that nearly 10 years have now elapsed since the date of Mrs. Henderson's appointment as Executrix and that these matters have caused the Estate unreasonable delay and expense.

35. That the assets in the Estate are presently in regular Savings Accounts and as of December 6, 1977, the date of the allowance of the Fourth Account, the assets held in the Estate equaled $40,434.49.

36. From December 6, 1977, to December 31, 1978, the expenses of administration of the estate, including attorney's fees totaled $1,953.50. From January 1, 1979 to December 31, 1980, the expense of administration have been approximately $2,450.

WHEREFORE, your petitioner prays as follows:

A. That all expenses of Administration, including Attorney's fees from and after the allowance of the Fourth Account on December 6, 1977, as hereafter allowed by this Court, be assessed against that one-half of the Estate assets held for Charles H. Sylvain.

B. That after adjustment is made for the above expenses against that share held for Charles H. Sylvain, to be shown on the Fifth Account (said expenses to approximate those shown in Article 36 of the within Petition), and funds be thereafter maintained in two separate regular savings accounts in the Estate's name, one to be designated for Charles H. Sylvain; and one to be designated for your Petitioner, Priscilla S. Henderson.

C. That this Honorable Court granted payment from the Estate assets of a partial distribution payable to Charles H. Sylvain and your Petitioner Priscilla S. Henderson in the amount of $15,000. each.

D. That, in light of the fact that, (1) none of said Charles H. Sylvain's objections or appeals made over the last eight years have contested your Petitioner's right to one half of the residuary of said estate, (2) payment to your Petitioner of a partial distribution will have no adverse effect upon the payment to Charles H. Sylvain of his share of the assets of the Estate; and (3) the various objections and appeals have unreasonably delayed the use and enjoyment by your Petitioner of her share of the Estate; that the payment of that partial distribution to your said Petitioner requested in Article C above be made immediately upon the allowance of the within Petition, regardless of whether the said Charles H. Sylvain accepts his partial distribution, and regardless of any further appeals made by the said Charles H. Sylvain. That if Charles H. Sylvain refuses to accept his partial distribution as requested above, then those funds be maintained in that account designated for him as set forth in Paragraph B above.

E. That the Petitioner be allowed to file the Fifth and Final Account within two weeks after this Honorable Court's disposition of the within Petition and that no further accounting be required by this Court.

F. That, in the interest of avoiding the necessity of said future Accounts, and hence the obvious appeals that would follow, upon the filing of said Fifth and Final Account, your Petitioner deliver over to this Honorable Court all remaining funds held by her in two separate savings accounts as requested by Article D hereof.

G. That upon resolution of any appeal that may follow a decision with respect to this Petition, the Court pay over to each party the balance in the respective savings accounts, less attorney's fees generated by any such further appeals to be deducted from the share of Charles H. Sylvain after written request with respect to said fees as filed with this Court.

H. That if at that time, Charles H. Sylvain refuses to accept his final distributive share, same be paid over to the State Treasurer under the provisions of RSA 561:10.

I. That, in light of the previous frivolous and immaterial legal machinations and appeals made by Charles H. Sylvain, relative to this Estate as outlined above that have been intended to cause and have caused considerable delay and expense to said estate; and in light of the Supreme Court's authority to award double the amount of the costs of frivolous appeals under N.H.R.S.A. 490: 14a, this Honorable Court hereafter in the event of further appeal by Charles H. Sylvain require an appeal bond in the minimum amount of $2,000. in such form as is deemed appropriate.

J. That this Honorable Court grant whatever further and additional relief as it may deem necessary to assure the speedy conclusion to the administration of this estate.

Dated the 31st day of August, A.D. 1981.

Estate of
Eudore J. Sylvain

By: /s/
PRISCILLA S. HENDERSON

COMMONWEALTH OF MASSACHUSETTS

Then personally appeared the above named Priscilla S. Henderson and made oath that the facts alleged in the foregoing by her subscribed are, true, according to the best of her knowledge and belief.

Before me,

/s/
Notary Public

STRAFFORD, SS. COURT OF PROBATE.

At a Court of Probate held at _____ in said County on the _____ day of _____, A.D. 19—, upon due consideration of foregoing petition, it is decreed that the prayer thereof be granted and that

_____
Judge of Probate.